

**STATE OF MICHIGAN
JUDICIAL DISTRICT****MOTION TO SET ASIDE DEFAULT
POSSESSION JUDGMENT**
☐ **EX PARTE ORDER TO STAY EVICTION
(LANDLORD/TENANT)****CASE NO.**

Court address

Court telephone no.

Plaintiff's name, address, and telephone no.

v

Defendant's name, address, and telephone no.

Plaintiff's attorney, bar no., address, and telephone no.

Defendant's attorney, bar no., address, and telephone no.

MOTION

1. A default was entered against me on _____ for failure to appear.
Date
2. **I ask** the court to set aside the default possession judgment (motion must be filed within 10 days of default judgment).
- ☐ 3. **I ask** the court to stay (delay) the eviction proceedings until the court holds a hearing on this motion.
- ☐ a. One month's rent is deposited with the court along with this motion.
- ☐ b. Reasons for granting a stay are:

Date

Defendant/Attorney signature

EX PARTE ORDER ON MOTION TO STAY EVICTION**THE COURT FINDS:**

1. ☐ a. One month's rent has been deposited.
- ☐ b. The grounds for relief to stay eviction are satisfied and the payment of the escrow deposit of \$_____ is waived.

IT IS ORDERED:

2. The motion is ☐ granted. ☐ denied.

Date

Judge

Bar no.

To be completed by the court. **NOTICE OF HEARING ON MOTION TO SET ASIDE DEFAULT**

A hearing will be held on _____ at _____
Date Time

at _____ before Hon. _____
Location Bar no.

Date

Deputy court clerk

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this motion and notice of hearing on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined by MCR 2.107(C)(3).

Date

Signature

Instructions for Filing and Serving a Motion to Set Aside Default Possession Judgment (Landlord/Tenant) (Form DC 99b)

Use this form if you want to ask the court to set aside a default possession judgment.

1. How do I file a Motion?

You file a motion by completing the form and filing it with the same court that signed the default entry or default judgment. There is a \$20 motion fee for filing a motion to set aside a default judgment.

2. Fill out the Motion form.

Write in the court number, case number, the court address and telephone number, and the names, addresses, and telephone numbers of the plaintiff and the defendant exactly as they are on the default judgment.

Write in the date that the default judgment was entered for your failure to appear in the case. In a few counties, a written answer is required and this answer means the same thing as appearing in the case.

Check box 3 if you want the court to delay eviction proceedings until the hearing. You must deposit one month's rent along with the motion or state the valid reasons you need the stay. See Michigan Court Rule 2.612(C). If you don't deposit one month's rent, the court might not delay the eviction proceedings.

Write in the date you complete the form and sign your name.

3. Make four copies of the completed Motion form.

4. File the Motion with the court.

File all four copies of your motion with the court in person or by first-class mail. If you mail your motion to the court, include a postage-paid and self-addressed envelope with your motion so that the court can return copies.

5. Ex Parte Order.

If you checked box 3 and deposited one month's rent along with the motion, the court will sign the ex parte order to delay the eviction proceedings. If you did not deposit one month's rent along with the motion, the court will either waive the requirement for the deposit or deny the delay.

6. Notice of Hearing.

The court will complete the Notice of Hearing. Do not write in this space.

7. Serve the Motion.

When you get the three remaining copies of the motion from the court, serve a copy on the plaintiff by first-class mail. If the plaintiff has an attorney, serve the motion on the attorney instead of the plaintiff. Complete the Certificate of Mailing on the bottom of your copy of the form. Make a copy of this and file it with the court. You can do this either in person or by first-class mail. Keep a copy for yourself.

8. What happens next?

You must attend the hearing on your motion. For more information you may visit www.michiganlegalhelp.org.